

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

Paper 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ADAM K. KOLAWA,
WENDALL T. HICKEN, MAREK KUCHARSKI,
and JANUSZ HAKA

Appeal No. 2002-2037
Application No. 09/128,706

ON BRIEF

Before LEE, LANE, and MOORE, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 from the final rejection of claims 1-14, which are all the pending claims.

REPRESENTATIVE CLAIM

The appellants have indicated (Brief, page 4) that, for the purposes of this appeal, the claims stand or fall together. Accordingly, all the claims will stand or fall together, and we will select claims 1 and 2, the broadest claims, as representative of all of the claims on appeal. Note 37 CFR § 1.192(c)(7). See

Appeal No. 2002-2037
Application No. 09/128,706

also In re Dance, 160 F.3d 1339, 1340 n.2, 48 USPQ2d 1635, 1636 n.2 (Fed. Cir. 1998); In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983). Claims 1 and 2 read as follows:

1. An apparatus for simulating push button operation on the screen of a display device comprising:

first means for displaying on the display a first oval and a second oval spaced below the first oval a first predetermined distance to simulate an undepressed three dimensional mechanical push button;

an input device for selecting the simulated push button; and

second means responsive to the input device for displaying on the display the first oval and the second oval spaced below the first oval a second predetermined distance shorter than the first distance to simulate a depressed three dimensional mechanical push button when a user input is received from the input device.

2. The apparatus of claim 1, further comprising a third means responsive to the input device for highlighting the simulated push button without changing the first distance.

Appeal No. 2002-2037
Application No. 09/128,706

The References

In rejecting the claims under 35 U.S.C. § 103(a), the examiner relies upon the following references:

Crutcher	5,666,504	Sep. 09, 1997
Jones	5,859,642	Jan. 12, 1999

The Rejections

Claims 1, 4, 5-9, and 12-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Crutcher.

Claims 2, 3, 10, and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Crutcher in view of Jones.

The Invention

The invention relates to a graphical user interface having a three-dimensional appearing button image. (Specification, page 1, lines 15-19). Further details of the claimed invention are seen with reference to claims 1 and 2 reproduced above.

The Rejection of Claims 1, 4, 5-9 and 12-14 Under 35 U.S.C. § 103(a)

Claims 1, 4, 5-9 and 12-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Crutcher.

The examiner has found that Crutcher describes an apparatus for simulating push button operation on a screen of a display

device, an input device for selecting the simulated push button, a predetermined distance shorter than the first distance to simulate a depressed three dimensional mechanism push button when a user input is received from the input device, and a means for displaying on the display a 3D rocker push button. (Examiner's Answer, page 4, lines 1-10).

The examiner has further found that Crutcher describes a circular button and an oval button. (Id., page 4, lines 11-15).

The examiner then concludes that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the oval shaped button of Crutcher into the 3D rocker button, as oval shape buttons are more common (e.g. radio knobs, etc.).

The appellants argue that neither Crutcher nor Jones creates a 3-D effect in a push button by changing the distance between two geometric figures, as claimed, much less two ovals (Appeal Brief, page 4, lines 11-12). After reviewing the applied references, we find that we agree with the appellants.

The three dimensional rocker switch of Crutcher illustrated at 301 of figure 3 and at 201-203 of figure 2 does not describe a push-button displayed having two ovals separated by a first and second distance to simulate a depressed three dimensional push button. Rather, while Crutcher has two circles depicting the ends

Appeal No. 2002-2037
Application No. 09/128,706

of a rocker switch, we find that the circles change size relative to themselves while maintaining the same distance therebetween, giving the illusion of tilting the rocker switch.

While Crutcher displays a three-dimensional rocker switch, Crutcher's representation is not accomplished by displaying two ovals separated by a first predetermined distance, then separating the ovals by a second predetermined distance. In other words, Crutcher does not describe or suggest a three-dimensional representation of a depressed mechanical push button as claimed.

Consequently, we are constrained to reverse this rejection.

The Rejection of Claims 2, 3, 10, and 11 Under 35 U.S.C. § 103(a)

Claims 2, 3, 10, and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Crutcher in view of Jones. As we have reversed the underlying rejection of claim 1, and these claims depend from claim 1, we likewise reverse this rejection for the reasons enumerated above.

Summary of Decision

The rejection of claims 1, 4, 5-9, and 12-14 under 35 U.S.C. § 103(a) as being unpatentable over Crutcher is reversed.

Appeal No. 2002-2037
Application No. 09/128,706

The rejection of claims 2, 3, 10, and 11 under 35 U.S.C.
§ 103(a) as being unpatentable over Crutcher in view of Jones is
reversed.

REVERSED

JAMESON LEE)	
Administrative Patent Judge)	
)	
)	
)	BOARD OF PATENT
SALLY G. LANE)	
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
)	
JAMES T. MOORE)	
Administrative Patent Judge)	

Appeal No. 2002-2037
Application No. 09/128,706

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